

1 SQUIRE, SANDERS & DEMPSEY L.L.P.
Mark C. Goodman (Cal. State Bar No. 154692)
2 Amy E. Rose (Cal. State Bar No. 222167)
One Maritime Plaza, Suite 300
3 San Francisco, CA 94111-3492
Telephone: +1.415.954.0200
4 Facsimile: +1.415.393.9887
Email: mgoodman@ssd.com
5 Email: arose@ssd.com

6 Attorneys for Defendant
UNITED STATES FIRE INSURANCE COMPANY
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9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 (OAKLAND DIVISION)
12

13 LENSRAFTERS, INC.; and EYEXAM
14 OF CALIFORNIA, INC.;

15 Plaintiffs,

16 vs.

17 LIBERTY MUTUAL FIRE INSURANCE
COMPANY; EXECUTIVE RISK
18 SPECIALTY INSURANCE COMPANY;
UNITED STATES FIRE INSURANCE
19 COMPANY; MARKEL AMERICAN
INSURANCE COMPANY; and
20 WESTCHESTER FIRE INSURANCE
COMPANY,

21 Defendants.
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Case No. C-07-2853 SBA
The Honorable Sandra B. Armstrong

E-FILING

**[PROPOSED] ORDER GRANTING U.S.
FIRE INSURANCE COMPANY'S MOTION
TO DISMISS LENSRAFTERS' SECOND
AND THIRD CAUSES OF ACTION**

Date: January 29, 2008
Time: 1:00 p.m.
Courtroom: 3

1 Defendant United States Fire Insurance Company's ("U.S. Fire") Motion to Dismiss
2 LensCrafters' Second and Third Causes of Action came on for hearing before this Court on
3 Tuesday, January 29, 2008 at 1:00 p.m.

4 The Court, having considered all of the papers submitted in connection with the motion
5 and having heard the argument of counsel, determines that the LensCrafters' claims for breach of
6 contract and tortious breach of the covenant of good faith and fair dealing are not yet ripe.
7 Accordingly, the Court hereby **GRANTS** U.S. Fire's motion and dismisses LensCrafters' second
8 and third causes of action.

9 **IT IS SO ORDERED.**

10
11 DATED: _____

The Honorable Sandra B. Armstrong

PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is One Maritime Plaza, Third Floor, San Francisco, California 94111-3492.

On October 19, 2007, I served the following document described as:

[PROPOSED] ORDER GRANTING U.S. FIRE INSURANCE COMPANY'S MOTION TO DISMISS LENSRAFTERS' SECOND AND THIRD CAUSES OF ACTION

☒ VIA THE UNITED STATES DISTRICT COURT ELECTRONIC FILING SERVICE on interested parties in this action as set forth below:

Richard DeNatale, Esq.
Celia M. Jackson, Esq.
Heller Ehrman LLP
333 Bush Street
San Francisco, CA 94104-2878
Telephone: (415) 772-6000
Facsimile: (415) 772-6268

Terrence R. McInnis, Esq.
Ross, Dixon & Bell, LLP
5 Park Plaza, Suite 1200
Irvine, CA 92614
Telephone: (949) 622-2700
Facsimile: (949) 622-2739

Alex F. Stuart, Esq.
Willoughby, Stuart & Bening
Fairmont Plaza
50 West San Fernando, Suite 400
San Jose, CA 95113
Telephone: (408) 289-1972
Facsimile: (408) 295-6375

Robert D. Dennison, Esq.
Harris, Green & Dennison
5959 W. Century Blvd., Suite 1100
Los Angeles, CA 90045
Telephone: (310) 665-8656
Facsimile: (310) 665-8659
rdd@h-glaw.net

Chip Cox, Esq.
Long & Levitt
465 California Street, 5th Floor
San Francisco, CA 94104
Telephone: (415) 438-4413
Facsimile: (415) 397-6392
chipc@longlevit.com

Executed on October 19, 2007, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ Amy E. Rose
Amy E. Rose

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DRAFT